IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 18685 of 1999

Between:
N.Appa Rao, S/o Venkanna, aged 90 years,
Akkampete, Jangareddygudem, West Godavari District.

..... PETITIONER

AND

1. Special Deputy Collector (Tribal Wing), K.R.Puram,
Buttayyagudem Mandal, West Godavari District

2. The Special Deputy Tahasildar (Tribal Wing),
K.R.Puram, Buttayyagudem Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ, order or any direction declaring the action of the respondents in registering a complaint in S.R.No.292 of 1999 alleging that the petitioner is in illegal possession of land in an extent of Ac.8-26 cents in R.S.No.26 and an extent of Ac.2-87 cents in R.S.No.28 even though he is the absolute owner and in possession of the said land without violating the provisions of Regulation 1 of 59 as amended by Regulation 1 of 70 as per the orders in S.R.No.77/94, dated 14-03-1995 as illegal, arbitary and unconstitutional and to pass such other order or orders.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following Order:

On a complaint made by T.Mallaiah and others alleging that the petitioner is in possession and enjoyment of an extent of Ac.8.26 cents in R.S.No.26 and an extent of Ac.2.87 cents in R.S.No.28 of Marlagudem village, in contravention of sub section (1) of Section 3 of Andhra Pradesh Scheduled Area Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970, the second respondent filed a complaint against the petitioner in S.R.No.77 of 1994, which was disallowed by the first respondent through orders dated 14-03-1995. Surprisingly, the first respondent issued a notice dated 19-07-1999 directing him to appear for the enquiry in S.R.No.292 of 1999, which was registered as per the complaint made by T.Mallaiah and others. Challenging the said notice, the present writ petition is filed.

Learned Counsel for the petitioner, while reiterating the submissions made in the affidavit, filed in support of the writ petition, contended that when once the first respondent, after conducting an elaborate enquiry, disallowed the claim stating that the petitioner has not contravened the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970, the question of registering another complaint and calling for enquiry again does not arise. He further contended that the persons, at whose presence the same complaint was registered, were not made parties in S.R.No.77 of 1994, which was filed for the same relief. Therefore, issuance of notice to appear again for the enquiry on the complaint received is arbitrary and illegal and the same cannot be proceeded with.

Having heard the learned Counsel for both parties, and having perused the material on record, it is evident that the complainant were not impleaded as parties to the writ petition. It is not the case of the petitioner that he is not a party to the complaint in S.R.No.77 of 1994.

In view of the same, any order passed in the writ petition will not

bind the complainant and if the land belongs to the complainant, which is occupied by the petitioner, it is always subject to enquiry.

Hence, I do not see that the impugned notice suffers from any infirmities and it cannot be said that the first respondent will not have jurisdiction to proceed with the enquiry, if a complaint is made.

Accordingly, the writ petition fails and is dismissed. However, *status quo* with regard to the possession shall be maintained by both the parties till the enquiry is completed. No costs.

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18-06-2004

kdl/Murthy

To

1. The Special Deputy Collector (Tribal Wing), K.R.Puram, Buttayyagudem Mandal, West Godavari District

2. The Special Deputy Tahasildar (Tribal Wing), K.R.Puram, Buttayyagudem Mandal, West Godavari District.

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